

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

HAROLD A. HOLMAN
Claimant

VS.

GREIF BROS. CORP.
Respondent
Self-Insured

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) Docket Nos. 214,336 & 217,115
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ORDER

The claimant appealed the preliminary hearing Order dated February 27, 1998, entered by Administrative Law Judge Jon L. Frobish.

ISSUE

After claimant injured his right knee at work in June 1996, it remained symptomatic and would occasionally give way. In September 1997, the knee gave way causing claimant to fall and fracture his right hip. Kansas law provides that every direct and natural consequence, including a new and distinct injury, that flows from an initial work-related injury is compensable under the Workers Compensation Act. The only issue on this appeal is:

- (1) Did claimant fracture his right hip as a direct and natural result of the initial right knee injury?

FINDINGS OF FACT

After reviewing the entire record, the Appeals Board finds as follows:

- (1) While visiting a friend on September 10, 1997, Mr. Holman fractured his right hip when his right knee gave way causing him to fall.
- (2) Mr. Holman began having problems with his right knee after injuring it at work in June 1996. After that accident, Mr. Holman's right knee had given way on several different occasions.
- (3) In his letter dated January 5, 1998, Mr. Holman's authorized treating orthopedic surgeon, Bradley W. Bruner, M.D., wrote that "Mr. Holman's episodes of falling are a consequence of his knee condition caused by the work-related injury."

(4) The September 10, 1997, fall is a direct and natural result of the June 1996 work-related injury.

CONCLUSIONS OF LAW

The general rule is that every natural consequence that flows from a work-related injury, including a new and distinct injury, is compensable if it is a direct and natural result. Jackson v. Stevens Well Service, 208 Kan. 637, 493 P.2d 264 (1972). The rule, however, does not apply when there is a new and separate accident. Stockman v. Goodyear Tire & Rubber Co., 211 Kan. 260, 505 P.2d 697 (1973).

The Appeals Board has addressed somewhat similar fact situations where an injured worker's hip or knee remain symptomatic and unstable after sustaining a work-related accident and the leg later gave way causing additional injury. In determining whether the latter injury is compensable, the Appeals Board has stated the test is whether the new injury is a direct and natural result of the initial injury or the result of a new and separate accident. The Appeals Board has also previously indicated that "a separate accident" can logically be defined as an accident caused by an independent event, trauma, or outside force unrelated to the initial injury.

Here, Mr. Holman's unstable knee gave way causing him to fall. The fall and resulting injuries are directly related to Mr. Holman's earlier work-related injury rather than to an independent event. Because the September 10, 1997, fall was a direct and natural result of the work-related knee injury, the injuries received in the fall are compensable under the Workers Compensation Act.

The preliminary hearing Order should be modified to award Mr. Holman benefits for the September 10, 1997, fall.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated February 27, 1998, is modified as claimant is entitled to workers compensation benefits for the September 10, 1997, fall and the resulting hip injury. Claimant is entitled to medical treatment for the hip at respondent's expense with Dr. Bradley W. Bruner as the authorized treating physician.

IT IS SO ORDERED.

Dated this ____ day of April 1998.

BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Kirby A. Vernon, Wichita, KS
Jon L. Frobish, Administrative Law Judge

HAROLD A. HOLMAN

3

DOCKET NOS. 214,336 & 217,115

Philip S. Harness, Director